



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. P. Lockhart, Chairman
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Opinion No. 0-5318
Re: Whether Item 64 "Insurance
and Bond Premiums" under
appropriations to the
Examining Division of the
Board of Insurance Commis-
sioners as set forth in
S. B. 423, 47th Legislature,
may be supplemented.

Your request for an opinion of this department, as contained in your letter of July 8, 1943, presents the question of whether or not Item 64 under appropriations to the Examining Division of the Board of Insurance Commissioners as set forth in the above appropriations bill, such item being exhausted, may be supplemented in an amount necessary to defray additional bond expense for the fiscal year ending August 31, 1943. As indicated in your letter, we are to assume that the fund from which this Division is maintained is sufficiently large to take care of all appropriations therefrom as well as such additional expenditure as involved in your request.

The following provisions of S. B. 423, Forty-seventh Legislature, appear on pages 1186 and 1187 of the General and Special Laws, Acts of 1941, and relate to the question considered:

"MAINTENANCE AND MISCELLANEOUS

	For the years Ending	
	August 31, 1942	August 31, 1943

"Insurance and bond premiums	\$450.00	\$450.00
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* * *

"For the purpose of paying the foregoing

examination expense and such additional or supplemental expense as is necessary incident to the examination work, and for the payment of the salaries and expenses of any additional examiners, stenographers, clerks and such help as is necessary in the administration of the examining division (provided any additional employees performing similar work to the position designated hereinabove shall not receive a greater sum of compensation than that herein provided), and for defraying all other expenses necessary for the administration of the provisions of Chapter 152 of the General Laws of the Regular Session of the 42nd Legislature and Chapter 264 of the General Laws of the Regular Session of the 44th Legislature, and any and all amendments thereto, and as amended by Senate Bill 397, Acts of the Regular Session of the 46th Legislature, 1939, there is hereby appropriated all fees and assessments collected under authority of said Examining Law, such portion of the fees collected under Article 3920, Acts 1939, 46th Legislature, S. B. 404, as may be transferred by the Life Insurance Commissioner, together with any balances at the end of a preceding fiscal year, for each of the fiscal years ending August 31, 1942, and August 31, 1943. The head of the department shall make application to the Board of Control and receive its approval in writing before employees, other than those itemized in the appropriation bill, are employed. Said application shall set out the reasons, and necessity for the employment of the additional employees."

Looking to the foregoing provision, it appears that the Legislature expressly authorized the employment of additional examiners to the number for which specific appropriations were made in the bill, provided such help was necessary in the administration of the examinations conducted by the Examining Division. Only in connection with the employment of additional examiners, we think, made by application to the Board of Control, with its approval in writing, is it necessary to consider payments from the fund over and above each annual \$450.00 appropriated in Item 64 for the biennium ending August 31, 1943.

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Article 4690c, Vernon's Annotated Civil Statutes, specifically requires each examiner and assistant examiner before entering upon the duties of his office to enter into a bond payable to the State to be approved by the Commissioner and deposited in the Office of the State Comptroller. We know of no other insurance or bond premiums for which the appropriations under Item 64 are made other than for those bonds required of the examiners and their assistants authorized under Article 4690b, V. A. C. S., for which specific appropriations to pay salaries are made in the bill. This item appears to be an expense, previously borne by the examiners but in the 1942-1943 appropriation bill, expressly allowed as an expense of the office.

When construed with the specific appropriations made by the 47th Legislature to the Examining Division, the above quoted rider provision expressly authorizes Item 64 to be supplemented as an expense of any additional examiners as are necessary in the administration of the Examining Division.

It is therefore the opinion of this department that Item 64 of the appropriations, S. B. 423, 47th Legislature, made to the Board of Insurance Commissioners may be supplemented out of the fees and assessments appropriated to such Division to pay insurance and bond premiums of such additional examiners authorized to be employed as an expense necessary in the administration of the Examining Division.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

Wm. J. R. King
Assistant

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